

RESPONDING TO COMPLAINTS

One primary way in which the Ombudsman responds to families and citizens is by impartially investigating and analyzing complaints against the Department of Social and Health Services (DSHS) and other agencies that provide services through the child protection and child welfare system. The Ombudsman investigates and analyzes every complaint it receives. Sound investigations and analyses enable the Ombudsman to respond effectively when action must be taken to change an agency's conduct and accurately identify problematic policy and practice issues that require further study. They also allow the Ombudsman to effectively back up DSHS or another agency when it is unfairly criticized for properly carrying out its statutorily mandated duties.

This section describes how the Ombudsman conducts investigations and analyzes complaints. It also summarizes the characteristics and results of investigations that the Ombudsman completed during the reporting period of September 1, 2001 through August 31, 2002.

Investigating Complaints

Investigations generally begin when a completed complaint form is received. After receiving a completed form, Ombudsman staff enter specified complaint information into an automated database. The Ombudsman director then reviews the complaint to determine whether it meets Ombudsman criteria for an immediate investigation.¹

If a complaint warrants an immediate investigation, the Ombudsman director will assign the complaint to a lead ombudsman and instruct him or her to initiate an emergent investigation. If it does not meet emergent criteria, the complaint will be assigned to a lead ombudsman for a standard investigation.

Standard Investigations

The lead ombudsman begins his or her investigation within 15 working days of the office's receipt of the complaint. Initially, the ombudsman will contact the person who filed the complaint and discuss specific issues in detail. The ombudsman then reviews information on CAMIS (DSHS's computerized case-management system), including the caseworker's narratives, Child Protective Services referral history, legal history and other relevant information.

Complaints are investigated in a confidential manner.

The Ombudsman will not disclose the identity of a person filing a complaint without his or her permission. The Ombudsman also is required to maintain the confidentiality of its investigative records, along with confidential agency records and information that the office reviews, and is prohibited from disclosing confidential records or information outside the office. The Ombudsman's investigative records are not subject to subpoena, nor are they admissible as evidence in legal proceedings.

¹ Ombudsman criteria for initiating an emergent investigation are: If true, the alleged agency action or inaction places the safety or well being of a child or family at imminent risk of serious harm.

The ombudsman also interviews DSHS caseworkers, supervisors and other individuals involved with the case, such as guardians ad litem and other service providers. If appropriate, the ombudsman may conduct a complete review of the hard file or request faxed copies of pertinent documents, such as community Child Protection Team reports or independent professional evaluations. In some instances, to obtain a more complete perspective of the case, the ombudsman will attend and observe (but not participate in) key meetings and court hearings.

After gathering sufficient factual information and researching applicable laws, policies and procedures, the ombudsman writes a report describing the complaint issues and case background. This investigative report also contains analysis and findings on key issues pertaining to the alleged conduct of DSHS or another agency. The report is provided to the Ombudsman director and other ombudsmen for a team review.

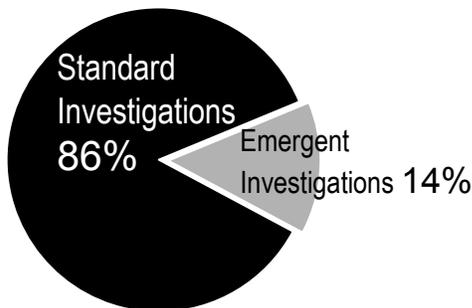
Emergent Investigations

The Ombudsman periodically receives phone calls alleging that DSHS's action or inaction has placed the safety or well being of a child or family at imminent risk of harm. Sometimes these allegations are contained in a written complaint. In either case, if the allegations meet the specified criteria for an emergent investigation, the complaint is immediately brought to the director's attention. The assigned ombudsman begins investigating the emergent complaint immediately and suspends other work.

The ombudsman expedites the standard investigation process and must report his or her preliminary or final findings to the director within 48 hours after receiving the complaint.

Type of Investigations Completed

September 1, 2001 to August 31, 2002



Total Investigations = 398

Source: The Family and Children's Ombudsman

March 2003

Completed Investigations

Between September 1, 2001 and August 31, 2002, the Ombudsman **completed nearly 400 complaint investigations** – an all-time high.² This accomplishment was achieved even though the office was not ever fully staffed during the reporting period.

The vast majority of completed investigations were standard non-emergent investigations. One out of seven completed investigations met the Ombudsman's criteria for initiating an emergent investigation. Emergent investigations most often involved complaints about a child's safety.

² Of the 398 complaint investigations completed by the Ombudsman, 81 percent were investigations of complaints received during the reporting year, while 19 percent were of complaints received in a previous year.

Analyzing Complaints

The objective of a complaint investigation is to determine whether DSHS or another agency should be induced to change a decision because the Ombudsman has concluded that the agency has violated law, policy or procedure and/or unreasonably exercised its authority.

The Ombudsman's analysis begins when the lead ombudsman presents his or her written investigative report at a weekly team review meeting.

Team Review

Team review includes the Ombudsman director and the office's other ombudsman staff, who have extensive professional experience in law and social work.

The ombudsman's report provides a detailed background of the case and sets forth specific complaint issues, the ombudsman's analysis of each issue, and his or her recommendation about how the Ombudsman should respond. These confidential reports are for internal use only and are not released to the complainant or the agency.

After reading the report and listening to the ombudsman's summary, the team members may pose questions, test assumptions, identify information gaps, identify problematic policy or practice issues, raise additional issues for investigation or analysis, offer an alternative analysis or recommendation, and/or play "devil's advocate."

While the Ombudsman review team generally reaches a consensus when determining the merits of each complaint, the director has ultimate decision-making authority.

If the Ombudsman determines that a complaint does not meet the applicable criteria (see sidebar), the lead ombudsman personally notifies the complainant and explains the office's rationale for not taking further action. Additionally, the ombudsman refers the complainant to an agency or resource that may be of assistance. The investigation is then closed.

If the Ombudsman determines that a complaint meets the criteria, the lead ombudsman brings the matter to the attention of appropriate agency officials. The specific action taken by the Ombudsman will depend on the facts and circumstances of the individual complaint. (See "Taking Action on Behalf of Children and Families" section for a selection of case studies illustrating how the Ombudsman resolves complaints.)

The Ombudsman acts as an impartial fact finder and not as an advocate,

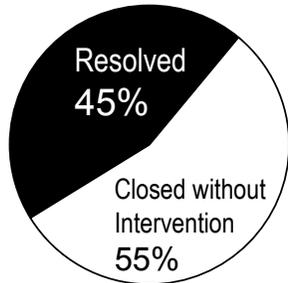
so the review team's focus is on determining whether the issues raised in the complaint meet the following objective criteria:

- ▶ The alleged agency conduct is within the Ombudsman's jurisdiction.
 - ▶ The alleged agency action or inaction did occur.
 - ▶ The agency action or inaction violated law, policy or procedure or was clearly inappropriate or unreasonable under the circumstances.
 - ▶ The agency's action or inaction was harmful to a child's safety, health, well-being, or right to a permanent family. Or it was harmful to appropriate family preservation, contact or reunification.
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When the Ombudsman takes action on a complaint, the person who filed the complaint is informed of the progress and final resolution of the case. Complaints are often resolved during the course of the Ombudsman's investigation – even before the Ombudsman has made a determination on whether the criteria were met. When this occurs, the lead ombudsman presents the complaint to the Ombudsman review team, documents any problematic policy or practice issues, and then closes the investigation.

Emergent Investigation Results

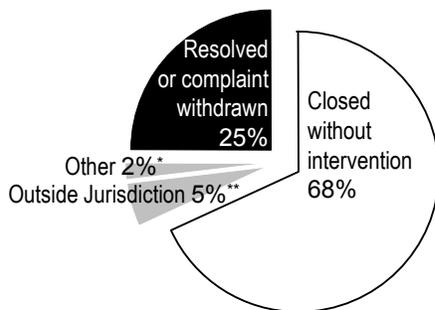
September 1, 2001 to August 31, 2002



Total Emergent Investigations = 56

Standard Investigation Results

September 1, 2001 to August 31, 2002



Total Standard Investigations = 342

* Other includes investigations that were closed because the complaint issue became moot or for some other reason could not be fully investigated.

** Once the Ombudsman determines that a complaint is outside of the office's jurisdiction, the investigator closes the investigation and refers the complainant to the appropriate agency for assistance.

Source: The Family and Children's Ombudsman

March 2003

Results

Between September 1, 2001 and August 31, 2002, the Ombudsman resolved 45 percent of complaints that were the subject of an **emergent investigation**. As mentioned earlier, these investigations most often involve complaints about a child's safety.

During the same period, the Ombudsman closed about two thirds of its **standard complaint investigations**, after the office determined that an intervention to induce a change in the agency's course of action was not warranted. About one quarter of the investigations ended with the complaint being resolved after the agency agreed to change its course of action.

Policy and Practice Issues

Ombudsman investigations occasionally reveal problematic policy or agency practice issues. These may or may not be related to the central issue of the complaint.

For example, while investigating a complaint about the adoption of a child in foster care, the lead investigator noted that the child was taken into state custody only after DSHS had received 15 credible reports of suspected neglect against the child's mother.

Or, while discussing a complaint about DSHS's refusal to place a foster child with a relative, a review team member noted that the department did not, as required by law, conduct a search for potential relative placements at the time the child was initially removed from his parents and placed with his current, non-relative foster family.

Issues like these are documented by the lead ombudsman and entered into the Ombudsman database. The Ombudsman uses this information to identify patterns or trends that may warrant a systemic investigation resulting in recommendations for changes in policy or practice. (See "Improving the System" section.)